

**REMARKS**

Applicants respectfully request that the foregoing amendments be made prior to examination of the present application.

Claims 1 and 15 are currently being amended.

Claims 25-30 are being added. No new matter is added.

This amendment adds and changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-4, 9-10, 15-17, 19-21, 23 and 25-30 remain pending in this application.

In the Advisory Action, claims 1-4, 9-13, 15-17 and 19-23 stand rejected. The Examiner stated that:

Applicants state the claim language inherently requires particular formation steps to occur in a particular order.

The Examiner disagrees because Antecedent [sic] language does not apply in order. The purpose of antecedent language in claim construction is to provide definiteness to the claims under 35 U.S.C. § 112(2). In the instant case, the antecedent language “the gate dielectric” merely identifies this feature as the “a gate dielectric recited in the previous line. Accordingly, no order is necessarily implied by the use of antecedent language. The claims must be given the broadest reasonable interpretation, in this case, that no order to the claims steps is required. Moreover, if Applicants wish to claim a particular order to the steps, the claims must clearly point out and claim such order.”

To advance prosecution, Applicants have amended the claims to recite the order associated with providing the gate dielectric layer.

As discussed in the response to the Final Office Action, Liu discloses a conventional process in which a sacrificial layer is provided above the substrate. The nitride layer is provided above the sacrificial layer and therefore is not provided above the gate dielectric layer as required by claim 1. Similarly, Liu does not disclose or suggest providing the first layer above the gate dielectric layer as required by claim 15. In fact, at no point in the process of Liu is a nitride layer provided above the gate dielectric layer. The gate dielectric layer is provided in an aperture in the nitride layer, a very different process from that recited in claims 1 and 15. Claim 25 recites "after providing the gate dielectric layer, providing the first layer." Liu does not disclose or suggest this step.

Accordingly, it is respectfully submitted that independent claim 1 and its dependent claims 2-4, 9-10, independent claim 15 and its dependent claim 16-17, 19-20 and 23 and independent claim 25 and its dependent claims 26-30 are patentable over Liu.

Applicants believe that the present application is now in condition for allowance. Favorable consideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date 4-11-05

FOLEY & LARDNER LLP  
Customer Number: 34083  
Telephone: (414) 297-5768  
Facsimile: (414) 297-4900

By Joseph N. Ziebert  
Joseph N. Ziebert  
Attorney for Applicant  
Registration No. 35,421